



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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JUL 1 - 2013

Ref: 8 EPR-N

Phil Cruz, Forest Supervisor
Douglas Ranger District
Medicine Bow & Routt National Forests and
Thunder Basin National Grassland
2250 East Richards Street
Douglas, Wyoming 82633

Re: Mackey Road Relocation, Peabody Coal
Draft EIS Review # 20130137

Dear Mr. Cruz:

The U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Mackey Road Relocation -- Peabody Powder River Mining (PPRM), LLC Draft Environmental Impact Statement (EIS). Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

Project Background -- PPRM has asked the Forest Service to authorize relocation of portions of Mackey Road and Temporary Reno Road onto lands managed by the Forest Service. The proposal includes construction of about 9 miles of county roads of which 7.1 miles will be on National Forest System (NFS) lands. Relocating the roads will allow PPRM to mine several existing federal coal lease areas which are part of the existing North Antelope - Rochelle Mine located near Wright, Wyoming.

Comments

1. Appendix 3 of the Draft EIS is entitled "Maps." The appendix only has one map showing the proposed alignment on a quad map base layer. It appears from the narrative that several other maps were intended for inclusion in the document. We have noted below maps which appear to be missing in the Draft EIS and/or maps that would better disclose the location of potential impacts.
 - a. Project location map showing the existing road alignment, coal mines, highways and nearby towns.
 - b. Map showing the Thunder Basin National Grassland geographic areas discussed in section 1.1 and the management areas discussed in section 1.2 of the Draft EIS.
 - c. Page 17 of the Draft EIS states that "Nineteen alternative routes to the proposed action were developed during early discussion of the project and are illustrated on Appendix 3,

Exhibit A.” This information was not included in the Draft EIS

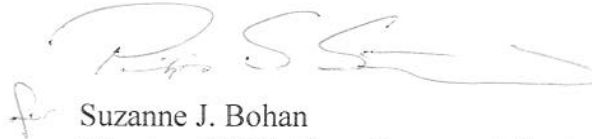
2. It is unclear whether the single proposed action alternative and the no action alternative in the Draft EIS present an adequate range of alternatives. For example, it is not clear whether there is a viable alternative that re-locates the road on to previously mined lands thereby reducing impacts to undeveloped land. Also, it is unclear if the one action alternative is an environmentally preferable alternative, or if there are other alternatives that have less impact to aquatic resources. The Draft EIS does not include a description of the alternatives dismissed from consideration as required by 40 C.F.R 1502.14(a). We recommend that Section 2.2 -- Alternatives Considered but Eliminated from Detailed Study be expanded in the Final EIS to describe the alternatives which were considered but dismissed, and citing the reasons for dismissal for each.
3. On page 20, Section 2.5 -- Required Mitigation, we recommend that the Forest Service develop additional mitigation measures in the Final EIS to aid in meeting the management area objectives for improving grazing and wildlife habitat in the area surrounding the new road right-of-way. Mitigation could include reclaiming and revegetating casual roads or roads no longer in use.
4. On page 98 in the wetland impacts section, the Draft EIS states that there would be permanent impacts to approximately 1.4 acres of jurisdictional wetlands associated with Little Thunder Creek. The document states that wetland impacts are to be addressed by obtaining a Nationwide Permit 14 (a general permit under the Clean Water Act in Section 404) from the U.S. Army Corps of Engineers. We note that the Nationwide 14 permit cannot be used for impacts greater than ½ acre. We recommend consulting with the Corps prior to the Final EIS, and providing additional information in the Final EIS to explain more fully how the wetland impacts will be permitted under Section 404, whether via a Nationwide 14 Permit or an individual permit.
5. A Clean Water Act Section 404 permit for wetland impacts requires a minimum of one-to-one mitigation ratio for wetland impacts. We recommend that the Final EIS identify potential wetlands mitigation sites and determine whether a greater than one-to-one mitigation ratio would be appropriate. For example, the mitigation ratio is frequently greater for wetland restoration and enhancement activities and for impacts to higher quality wetland resources. In the areas surrounding the new proposed road alignment, it appears that there could be opportunities to restore wetlands previously damaged by mineral exploration, casual roads and historic grazing activities. As the project proponent has substantial expertise in restoring wetlands and other habitat in this area, PPRM may be able to identify wetland restoration projects with a high probability of success that can be incorporated into the Mackey Road project.

EPA's Rating and Recommendations – Consistent with Section 309 of the CAA, it is the EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. Based on the procedures the EPA uses to evaluate the adequacy of the information and the potential environmental impacts of the proposed action, the

EPA is rating this Draft EIS as Environmental Concerns- Insufficient Information (EC-2). The "EC" rating indicates that the EPA review has identified environmental impacts that need to be avoided in order to fully protect the environment. The "2" rating indicates that the EPA review has identified a need for additional information, data analysis or discussion in the Final EIS in order for the EPA to fully assess environmental impacts from the project. Specifically, the EPA has requested additional information regarding the alternatives and wetlands in order to assure adequate protection of resources. A full description of the EPA's rating system is enclosed.

We hope that our comments will assist you in clarifying and further reducing environmental impacts of this project. We appreciate the opportunity to review and comment on the Draft EIS. If we may provide further explanation of our comments, please contact me at 303-312-6925 or Dana Allen at 303-312-6870

Sincerely,

A handwritten signature in dark ink, appearing to read 'Suzanne J. Bohan', with a stylized flourish at the end.

Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Enclosure: EPA's Rating System Criteria

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO -- Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC -- Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO -- Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU -- Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 -- Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 -- Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 -- Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

